

**\*E-FILED 07-12-2011\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

QUIA CORPORATION,

No. C10-01902 JF (HRL)

Plaintiff,  
v.

**CONDITIONAL ORDER GRANTING IN  
PART AND DENYING IN PART  
PLAINTIFF'S MOTION TO COMPEL  
DEPOSITION TESTIMONY**

MATTEL, INC. and FISHER-PRICE, INC.,

**[Re: Docket No. 112]**

Defendants.  
\_\_\_\_\_

Plaintiff moves to compel deposition testimony concerning the “iXL” trademark applications filed by defendant Mattel, Inc. (Mattel). Defendants oppose the motion. The matter was deemed submitted on the papers without oral argument. Civ. L.R. 7-1(b). Upon consideration of the moving and responding papers, this court conditionally grants the motion in part and denies it in part as follows:

Discovery as to the “iXL” trademark applications is relevant or reasonably calculated to lead to the discovery of admissible evidence. FED. R. CIV. P. 26(b)(1). Inasmuch as defendants used the word “adopt” in prior briefing to refer to (among other things) the subject trademark applications, this court finds that plaintiff’s original Fed. R. Civ. P. 30(b)(6) deposition notices provided sufficient notice of the subjects of examination. The court therefore does not reach the issue whether plaintiff’s amended deposition notices were timely served. Plaintiff has not, however, convincingly demonstrated that defendants waived the attorney-client privilege as to

1 the subject matter of the trademark applications.

2 This court is told that defendant Fisher-Price, Inc. (Fisher-Price) was not involved with  
3 the trademark applications at issue. And, although the discovery motion is styled as one to  
4 compel testimony from both defendants, the motion itself focuses on Mattel.

5 Accordingly, plaintiff's motion is denied as to Fisher-Price. But, Mattel should have  
6 prepared a designee to testify about the trademark applications. Any opportunity to further  
7 depose Mattel about those applications, however, is conditioned on the presiding judge's  
8 determination that the present case schedule should be modified to allow additional time for  
9 plaintiff to depose defendant Mattel as to those applications. In that vein, this court reports that  
10 even with the extension to May 18, 2011 to complete certain depositions, the instant motion to  
11 compel was not timely filed, albeit only by one day. Civ. L.R. 37-3.

12 SO ORDERED.

13 Dated: July 12, 2011

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16 HOWARD R. LLOYD  
17 UNITED STATES MAGISTRATE JUDGE  
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1 5:10-cv-01902-JF Notice has been electronically mailed to:

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